

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA)	No. 1:15-CR-153-05
)	
v.)	(CHIEF JUDGE CONNER)
)	
NELSON MARTINEZ,)	
Defendant.)	(Electronically Filed)

GOVERNMENT'S SENTENCING MEMORANDUM

AND NOW, the United States of America, by its undersigned counsel, submits the following Sentencing Memorandum in the above-captioned case:

I. Statement of the Case.

On July 22, 2015, the defendant was charged in a five-count indictment, along with 10 others, with conspiracy to distribute and possess with intent to distribute 1 kilogram and more of heroin and five kilograms and more cocaine hydrochloride (Count 1). The charges were based upon a number of packages that were intercepted, which contained heroin and cocaine hydrochloride and the execution of search warrants.

On May 18, 2016, the defendant entered a plea of guilty to Count 1 of the indictment pursuant to a written plea agreement. A

Presentence Report was ordered and prepared. His sentencing guideline range is 135-168 months' imprisonment.

II. Discussion

A. THERE IS A CRISIS REGARDING OPIOID AND HEROIN USE AND AVAILABILITY IN THE MIDDLE DISTRICT OF PENNSYLVANIA AND NATIONWIDE.

Approximately 142 Americans die each day from a drug overdose. This death toll is equal to the death toll of September 11, 2001, every three weeks. The presence of an opioid was identified in 85% of drug-related overdose deaths in Pennsylvania in 2016. The Harrisburg-region counties far exceed the national overdose death rate. This opioid crisis in Pennsylvania and across the United States is a public health and safety emergency. Indeed, on October 26, 2017, the President declared the Opioid Crisis to be a national public health emergency.

On June 27, 2016, the U.S. Drug Enforcement Administration ("DEA") issued its 2016 National Heroin Threat Assessment.¹ According to the DEA, heroin use and availability are on the rise and causing more overdose deaths than at any time in the last decade. The

¹ https://www.dea.gov/divisions/hq/2016/hq062716_attach.pdf.

assessment explains that in 2014, 10,574 Americans died from heroin-related overdoses, more than tripling the number in 2010. Drug overdose is now the leading cause of injury and death in the United States, surpassing car crashes and gun violence.

The Centers for Disease Control and Prevention (“CDC”) views the sharp rise in heroin-related overdoses as an epidemic.² The CDC states that heroin use has increased across the United States among men and women, most age groups, and all income levels. As heroin use has increased, so have heroin-related overdose deaths. The CDC reports that between 2000 and 2015, the rate of heroin-related overdose deaths more than quadrupled, and more than 12,989 people died in 2015.³

Sadly, today’s heroin epidemic has hit home in the Middle District of Pennsylvania. The Pennsylvania State Coroner’s Association issued a report on drug-related overdose death statistics for 2015, which breaks down drug-related overdose deaths by county.⁴ A review of that

² <http://www.cdc.gov/drugoverdose/opioids/heroin.html>.

³ *Id.*

⁴ The Pennsylvania State Coroner’s Association Report on Overdose Death Statistics for 2015 can be found at http://www.pacoroners.org/Uploads/Pennsylvania_State_Coroners_Association_Drug_Report_2015.pdf. The report includes statistics for all

report is a grim reminder that drug-related overdoses, including heroin-related drug overdoses, are prevalent throughout the Middle District of Pennsylvania.

Drug-related deaths are continuing to increase. The DEA Analysis of Overdose Deaths in Pennsylvania for 2016 (issued July 2017) indicates that coroners and medical examiners in Pennsylvania reported 4,642 drug-related overdose deaths in 2016, almost doubling the number reached in 2014 (2,489).⁵ This means that in 2016 approximately 13 people died every day in Pennsylvania from drug-related causes. Opioids were identified in 85% of the total deaths reported.

This overwhelming and steady increase is alarming. The year 2014 showed an average increase of about 20% over the prior year for many counties. In 2015, the number of drug-related deaths increased to

drug-related overdose deaths and is not restricted to heroin-related overdose deaths. It is likely that not all drug-related deaths were reported to the coroner, and the report does not include overdoses that resulted in serious mental and physical injuries.

⁵ <https://www.dea.gov/docs/DEA-PHL-DIR-034-17%20Analysis%20of%20Overdose%20Deaths%20in%20Pennsylvania%202016.pdf>

3,505, which represents a 30% increase over the prior year. The number increased 37% from 2015 to 2016. If, initial data for 2017 is any indication, the number of deaths will continue to increase.

Almost as alarming is the number of individuals who overdosed, but were fortunate enough to be saved by fast-acting antidotes. For every overdose death, there are scores of individuals living with addiction and committing crimes to support their habits. Crime increases when addicts deplete their savings and bargain away their possessions to support their habit. In addition to the overdoses, the economic and social costs to the community are overwhelming. Heroin and other opioids tear apart families, and the community is left to support loved ones left behind.

This Court should consider these statistics and the havoc that heroin and the other opioids are wreaking in our community when it imposes its sentence in this case. One dose of heroin, which sells on the street for approximately \$5 to \$15, contains on average about .025 grams of heroin. That individual dose can be fatal, depending on its purity. To trigger a five-year mandatory minimum sentence, at least 100 grams of heroin must be involved in the offense, or in other words,

approximately 4,000 doses of potentially fatal heroin. *See* 21 U.S.C. § 841(b)(1)(B)(i). For a ten-year mandatory minimum sentence to apply, at least one kilogram of heroin must be involved in the offense, or in other words, approximately 40,000 doses of potentially fatal heroin. *See* 21 U.S.C. § 841(b)(1)(A)(i).

As calculated in the presentence report, this defendant is responsible for at least seven kilograms of heroin, or in other words, at least 280,000 doses of potentially fatal heroin. By any definition, this is a very serious offense, and the sentence this Court imposes should reflect the seriousness of the offense. *See* 18 U.S.C. § 3553(a)(2)(A). Additionally, the defendant is also responsible for nine kilograms of cocaine hydrochloride.

III. Conclusion

For the foregoing reasons, the United States submits that the Court should sentence the defendant appropriately.

Respectfully submitted,

BRUCE D. BRANDLER
United States Attorney

Dated: November 15, 2017

BY: s/ DARYL F. BLOOM
DARYL F. BLOOM
Assistant United States Attorney
Daryl.Bloom@usdoj.gov
PA73820

228 Walnut Street, Suite 220
Harrisburg, Pennsylvania 17108
Phone: 717-221-4482
Fax: 717-221-4582

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that he is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania and is a person of such age and discretion as to be competent to serve papers. That on this Wednesday, November 15, 2017, he caused to be served and will serve a copy of the attached

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by electronic means sent to the Defendant's attorney at the following address and in person at the sentencing proceeding:

Addressee:
W. Chris Montoya
wcmontoya@gmail.com

Dated: November 15, 2017

s/Daryl F. Bloom
DARYL F. BLOOM
Assistant United States Attorney